

§ 58-48-20. Definitions.

As used in this Article:

- (1) "Account" means any one of the three accounts created by G.S. 58-48-25.
- (1a) "Affiliate" means a person who directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer.
- (2) "Association" means the North Carolina Insurance Guaranty Association created under G.S. 58-48-25.
- (2a) "Claimant" means any insured making a first party claim or any person instituting a liability claim; provided that no person who is an affiliate of the insolvent insurer may be a claimant.
- (3) Repealed by Session Laws 1991, c. 720, s. 6.
- (3a) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact.
- (4) "Covered claim" means an unpaid claim, including one of unearned premiums, which is in excess of fifty dollars (\$50.00) and arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this Article applies as issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this Article and (i) the claimant or insured is a resident of this State at the time of the insured event; or (ii) the property from which the claim arises is permanently located in this State. "Covered claim" shall not include any amount awarded (i) as punitive or exemplary damages; (ii) sought as a return of premium under any retrospective rating plan; or (iii) due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation or contribution recoveries or otherwise. "Covered claim" also shall not include fines or penalties, including attorneys fees, imposed against an insolvent insurer or its insured or claims of any claimant whose net worth exceeds fifty million dollars (\$50,000,000) on December 31 of the year preceding the date the insurer becomes insolvent.
- (5) "Insolvent insurer" means (i) an insurer licensed and authorized to transact insurance in this State either at the time the policy was issued or when the insured event occurred and (ii) against whom an order of liquidation with a finding of insolvency has been entered after the effective date of this Article by a court of competent jurisdiction in the insurer's state of domicile or of this State under the provisions of Article 30 of this Chapter, and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order.
- (6) "Member insurer" means any person who (i) writes any kind of insurance to which this Article applies under G.S. 58-48-10, including the exchange of

reciprocal or interinsurance contracts, and (ii) is licensed and authorized to transact insurance in this State.

- (7) "Net direct written premiums" means direct gross premiums written in this State on insurance policies to which this Article applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.
- (7a) "Ocean marine insurance" includes (i) marine insurance as defined in G.S. 58-7-15(20)a., except for inland marine, (ii) marine protection and indemnity insurance as defined in G.S. 58-7-15(21), and (iii) any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, which insures against maritime perils or risks and other related perils or risks, which are usually insured by traditional marine insurance such as hull and machinery, marine builders' risks, and marine protection and indemnity. The perils and risks insured against include loss, damage, or expense, or legal liability of the insured for loss, damage, or expense, arising out of, or incident to, ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, death, or for loss or damage to the property of the insured or another person. "Ocean marine insurance" does not include insurance on vessels or vehicles under five tons gross weight.
- (8) "Person" means any individual, corporation, partnership, association or voluntary organization.
- (9) "Policyholder" means the person to whom an insurance policy to which this Article applies was issued by an insurer which has become an insolvent insurer.
- (10) "Resident" means:
 - a. An individual domiciled in this State;
 - b. An individual formerly domiciled in this State at the time the applicable policy was issued or renewed and the term of the policy had not expired at the time of the insured event, and who at the time of the insured event had complied with the laws of the current domicile necessary to allow maintenance in force and effect of the applicable policy; or
 - c. In the case of a corporation or other entity that is not a natural person, a corporation or entity whose principal place of business is located in this State at the time of the insured event. (1971, c. 670, s. 1; 1985, c. 613, ss. 1-3; 1989, c. 206, s. 2; c. 770, s. 72; 1991, c. 720, s. 6; 1991 (Reg. Sess., 1992), c. 802, s. 2; 1993, c. 452, s. 51; 2003-167, s. 1.)